

1 MR. TOPEL: What, what has just been stricken?
2 JUDGE CHACHKIN: The sentence beginning, "Based on
3 my involvement."
4 MR. TOPEL: Just that one sentence? The whole
5 sentence?
6 JUDGE CHACHKIN: Yes. The next sentence where he
7 says "For example." Any other objection?
8 MR. TOPEL: That's still -- that "For example"
9 sentence is still in?
10 JUDGE CHACHKIN: There's no objection to it.
11 MR. TOPEL: Right. Okay.
12 JUDGE CHACHKIN: Anything else, (d) and (e)?
13 MR. COHEN: I'm trying to read.
14 JUDGE CHACHKIN: All right.
15 MR. COHEN: Your Honor, am I correct that in the
16 previous witness' testimony you, you left in -- you did not
17 strike the, the references to the broadcast of the -- the
18 description of the TBN programming? Did you leave that in? I
19 know I objected, but --
20 JUDGE CHACHKIN: I don't recall. Where was that?
21 MR. TOPEL: Which paragraph are you on?
22 MR. COHEN: (d) as in dog. Can we go off the record
23 for a second, Your Honor?
24 JUDGE CHACHKIN: Yes.
25 MR. COHEN: It might help.

1 (Off the record.)

2 MR. COHEN: Your Honor, back on the -- are we back
3 on the record, sir?

4 JUDGE CHACHKIN: Now we are.

5 MR. COHEN: Yes, sir. I object in paragraph --
6 subparagraph (d) on page 11 to the sentence beginning "I
7 believe that," through "is great."

8 MR. SCHONMAN: Through the end of the paragraph?

9 MR. COHEN: Yes, to the end of the paragraph. Your
10 point is well taken.

11 MR. TOPEL: And, Your Honor, on this point I feel
12 strongly enough about, about it to repeat my argument. I
13 think this is the witness' testimony about an important
14 judgment he makes as a director and I think the record should
15 reflect not only the judgment, but the basis on which he made
16 that judgment.

17 JUDGE CHACHKIN: But he's making this judgment as of
18 this time. The issue of control doesn't deal with this time.
19 It deals with what took -- what has happened in the past,
20 doesn't it?

21 MR. TOPEL: He's been a director only very recently,
22 so the issue of de facto control as it relates to him would
23 only relate to the time he's been a director obviously.

24 JUDGE CHACHKIN: The Bureau viewed this as
25 objectionable or what?

1 MR. SCHONMAN: The Bureau is of the opinion that the
2 only portion of paragraph -- of Section (d) on page 11 that's
3 salvageable is the first sentence.

4 JUDGE CHACHKIN: And the belief that the remaining
5 material is, is irrelevant?

6 MR. SCHONMAN: Correct.

7 JUDGE CHACHKIN: And why is that?

8 MR. SCHONMAN: Well, for the reasons that similar
9 portions were stricken with the preceding witness, that --

10 JUDGE CHACHKIN: Was it a similar portion?

11 MR. SCHONMAN: There's no reference here that, that
12 any affiliation agreements have expired and that the time came
13 for the Board to convene and decide whether to --

14 JUDGE CHACHKIN: All right. I'll reject this
15 material on the ground that it's not tied into the question of
16 control.

17 MR. TOPEL: That's beginning with the second
18 sentence in (d)?

19 JUDGE CHACHKIN: Beginning with the second sentence
20 and the remainder of the paragraph, yes.

21 MR. COHEN: And I object to (e) on the same grounds.
22 It's not tied in. And the last sentence is further
23 objectionable because it's speculative. It talks about once
24 this litigation is resolved what his intention will be, so
25 that's clearly --

1 JUDGE CHACHKIN: Subparagraph (e) is also stricken.

2 MR. TOPEL: Your Honor, may I have one second just
3 to reflect on that --

4 JUDGE CHACHKIN: All right.

5 MR. TOPEL: -- and see if I have any additional
6 comments? That's paragraph (e)?

7 JUDGE CHACHKIN: 11.

8 MR. TOPEL: 11(e). I resubmit my prior arguments
9 for that.

10 JUDGE CHACHKIN: All right. As far as paragraph 12
11 I will allow in the one sentence consistent with my prior
12 ruling, "I know that I have not purposely violated any FCC
13 requirements." The remainder of the paragraph will be
14 stricken as irrelevant. TBF Exhibit 103 is received except as
15 noted.

16 (The document that was previously
17 marked for identification as TBF
18 Exhibit No. 103 was received into
19 evidence with noted exceptions.)

20 MR. TOPEL: Your Honor, at this time I offer into
21 evidence TBF Exhibit 104.

22 JUDGE CHACHKIN: All right.

23 MR. COHEN: Your Honor, I have no objection to
24 paragraphs 1, 2, 3, 4 or 5, but I object to paragraph 6 on the
25 grounds that this kind of background experience -- his

1 background is not relevant to the control issues and I believe
2 you have so ruled in connection with other exhibits.

3 JUDGE CHACHKIN: Except this does deal with his
4 prior broadcast experience.

5 MR. COHEN: But I don't think that has -- I don't
6 think that -- well, let me think about that. Can I consult?

7 JUDGE CHACHKIN: Yes, you can consult.

8 MR. COHEN: Yes. I think because he -- I think your
9 point is well taken, Your Honor. Because of his broadcast
10 experience I think 6 should stay in.

11 JUDGE CHACHKIN: All right. Any -- where does your
12 objection begin? 7 also deals with further broadcast
13 experience.

14 MR. COHEN: Correct. No, no objection to 7.

15 JUDGE CHACHKIN: All right.

16 MR. COHEN: I think that 8 is objectionable because
17 it's, it's -- it deals with -- well, I don't object -- I guess
18 what I'm -- my point is I don't object to the identification
19 of, of who TBN is, but I do object to some of the self-serving
20 language in it, so we'll have to go through it line by line.

21 JUDGE CHACHKIN: All right.

22 MR. COHEN: Beginning "thus" in the middle of the
23 paragraph --

24 JUDGE CHACHKIN: Yes

25 MR. COHEN: "Thus," I object to that sentence as a

1 conclusion. It's become a very visible and very successful
2 charity. And the sentence, "We have accomplished that by
3 using our best efforts to comply with all of the various legal
4 requirements that apply," I think those are -- that's a --
5 those conclusions, Your Honor, that are not appropriate as
6 factual evidence by this record -- by this witness.

7 MR. TOPEL: I think the witness has personal
8 knowledge of those matters, Your Honor, and it is predicated
9 testimony to the testimony of the fact that TBN relies on
10 expert professionals for compliance and the witness' state of
11 mind concerning the alleged violations of Commission's rules.

12 MR. COHEN: I'm not objecting to that sentence about
13 we retain and rely on. That's not my objection.

14 JUDGE CHACHKIN: You object to the sentence -- two
15 sentence paragraph beginning with "thus" --

16 MR. COHEN: Correct.

17 MR. COHEN: -- "the magnitude?"

18 MR. COHEN: Beginning -- I'm beginning -- that's
19 correct, Your Honor, beginning with "thus" and --

20 JUDGE CHACHKIN: The material will be stricken as
21 irrelevant.

22 MR. COHEN: I do not object to the sentence that
23 MR. Topel referred to. I object to the last sentence as --

24 JUDGE CHACHKIN: The last sentence will also be
25 stricken.

1 MR. TOPEL: Your Honor, I would --

2 MR. COHEN: No objection on paragraph 9.

3 MR. TOPEL: Excuse me, Mr. Cohen.

4 MR. COHEN: Oh, excuse me.

5 MR. TOPEL: I would just like -- on that language
6 that's stricken I would like to, like to expressly reflect our
7 position that it's relevant to the -- our view that it's
8 relevant to the witness' state of mind.

9 JUDGE CHACHKIN: The idea that he may think it's
10 unthinkable is irrelevant. That's not for him to judge
11 whether it's unthinkable. It's for the triers of the fact, I
12 repeat again, to decide whether it happened or not. I don't
13 think it advances the ball one bit the fact that he may think
14 it's not -- it's unthinkable. We are having a hearing here
15 presumably for the questions that have been raised and the
16 questions will be answered, but for him to make the assertion
17 that it's unthinkable seems to decide the case before the
18 evidence is in.

19 MR. TOPEL: Well, it's offered for his state of mind
20 and --

21 JUDGE CHACHKIN: Well, I think his state of mind of
22 a fact he thinks is unthinkable is irrelevant, frankly.

23 MR. COHEN: No objection to paragraph 9, Your Honor
24 --

25 JUDGE CHACHKIN: All right.

1 MR. COHEN: -- or to 10 or 11. I do object to 12
2 because I think it's conclusory and is not directly related to
3 the -- directly relevant to the control issue and the abuse of
4 process issue, the awards that they received.

5 MR. TOPEL: I would submit, Your Honor, that it's,
6 it's relevant in mitigation of any violation that you might
7 find. The fact that there is a public -- acknowledged record
8 of public service by this licensee could affect the sanction
9 that should be imposed.

10 JUDGE CHACHKIN: Paragraph --

11 MR. COHEN: I don't think that's appropriate
12 evidence, Your Honor, to -- dealing with sanctions.

13 JUDGE CHACHKIN: You do?

14 MR. COHEN: I do not.

15 JUDGE CHACHKIN: I don't either. Paragraph 12 is
16 stricken as irrelevant.

17 MR. COHEN: And I object to 13 on the same grounds,
18 that it's irrelevant.

19 MR. TOPEL: Well, Your Honor, that I'd like to speak
20 to because apparently one of the issues, judging from the
21 exhibits that were exchanged, that may be raised with you is
22 that items of technical equipment were donated by TBN to NMTV,
23 and the fact that this is a charitable organization that
24 donates items of this nature to all sorts of entities,
25 prisons, hospitals, for the establishment of

1 telecommunications industries in backwards countries I think
2 puts -- is factual evidence that puts that kind of activity in
3 context and allows you to consider all factual evidence to
4 draw the inference.

5 MR. COHEN: Your Honor, I disagree with Mr. Topel.
6 This is analogous to non-FCC companies which operate
7 differently and this is analogous to boards which are non-
8 profit boards which act -- which operate differently than
9 licensee boards do. The fact that TBN may have given money to
10 a state or a federal prison is absolutely irrelevant to the
11 issues in this proceeding. Whether TBN has given gifts to
12 NMTV is very relevant because it goes to the issue of control.

13 JUDGE CHACHKIN: What's the Bureau's position?

14 MR. SHOOK: Your Honor, I've been struggling to
15 perceive the relevance of this paragraph and I cannot, so I
16 would argue that it be stricken.

17 JUDGE CHACHKIN: Paragraph 13 is stricken as
18 irrelevant. Next objection?

19 MR. COHEN: Paragraph 18, Your Honor.

20 JUDGE CHACHKIN: Yes.

21 MR. COHEN: I object to the reference to Pastor
22 Crouch and Mr. Crouch's meetings with former Commissioner
23 Richard Wiley as too remote and not bearing directly upon the
24 issues in this proceeding. It's not relevant to the control
25 issue.

1 MR. TOPEL: Your Honor, it's the -- event that led
2 to the formation of NMTV. We've -- in all the objections and
3 testimony that's been submitted you've always focused let's
4 get to the starting point of NMTV, and this paragraph begins,
5 "NMTV had it's origins," and Dr. Crouch explains why he did
6 what he did starting with this meeting, documented by written
7 evidence of the date the meeting occurred. I think
8 Mr. Cohen's objection is perhaps more that it's too relevant
9 than it's not relevant at all. I don't see how that's remote
10 whatsoever. That is the beginning of National Minority
11 Television and Dr. Crouch's relationship with National
12 Minority Television. That's what he's on trial for.

13 MR. SHOOK: Your Honor, the Bureau has no objection
14 to paragraph 18. It does, it does perceive this paragraph to
15 be the starting point.

16 JUDGE CHACHKIN: Anybody going to call Mr. Wiley as
17 a witness?

18 MR. COHEN: When I said remote, Your Honor, I didn't
19 mean remote in time. It was not my view that it was remote in
20 time. Obviously it couldn't be remote in time since the
21 Translator T.V., Inc. was formed in 1980. It was remote in
22 terms of what it -- what it's relationship is to the control
23 issue in this proceeding. That's the sense in which it's
24 remote.

25 JUDGE CHACHKIN: All right. I'll allow it in as

1 | some -- providing a background as to the starting of NMTV.

2 | Objection's overruled. Next objection?

3 | MR. COHEN: I have no objections to -- until we get
4 | to paragraph 25. I can't speak for the Bureau.

5 | JUDGE CHACHKIN: All right. What's the Bureau's
6 | view?

7 | MR. SHOOK: The Bureau has no objections either.

8 | JUDGE CHACHKIN: All right. 25, what's your
9 | objection?

10 | MR. COHEN: The last sentence is objectionable, "I
11 | do not control anyone on NMTV's Board and TBN does not
12 | either."

13 | JUDGE CHACHKIN: I'll strike that sentence as
14 | conclusory. Any other objections?

15 | MR. COHEN: Paragraph 27.

16 | JUDGE CHACHKIN: Yes.

17 | MR. COHEN: The last sentence is -- that's what's at
18 | issue in this proceeding, Your Honor. This is, this is a
19 | statement he makes excathedra, if you will. This is what you
20 | have to decide.

21 | JUDGE CHACHKIN: Paragraph 27 is stricken as
22 | irrelevant.

23 | MR. TOPEL: The whole -- the objection is just to
24 | the last sentence.

25 | JUDGE CHACHKIN: It's all conclusory. Well, the

1 first sentence, I guess, states a fact that they've made
2 requests --

3 MR. TOPEL: And, Your Honor, again I would submit
4 that the witness' statement of his belief, that's subject to
5 cross-examination, but he's entitled to state his state of
6 mind on the intent issue.

7 JUDGE CHACHKIN: The only objection is to the last
8 sentence. I'll just strike the last sentence, although again
9 I have problems with self-assertions.

10 MR. COHEN: I think the second sentence, Your Honor,
11 upon reflection, I don't know what the, what the probative
12 value is of that.

13 JUDGE CHACHKIN: Which one is that?

14 MR. COHEN: "I sincerely believe that these
15 preferences were properly explained." I think that has no
16 probative value.

17 JUDGE CHACHKIN: Well, I agree there's no probative
18 value.

19 MR. COHEN: And that's what I -- it should be
20 rejected, Your Honor.

21 JUDGE CHACHKIN: I don't -- I am going to reject it.
22 I'm not going to get into his beliefs. That's irrelevant.
23 The facts are relevant. Next paragraph?

24 MR. COHEN: Yes. Paragraph -- I have nothing until
25 31. I don't know if the Bureau has?

1 JUDGE CHACHKIN: What's the Bureau --

2 MR. SHOOK: No objection to those paragraphs,
3 Your Honor.

4 JUDGE CHACHKIN: All right. 31?

5 MR. COHEN: 31. In the middle of the paragraph it
6 says, "I know it was made in good faith." That's a conclusion
7 that you have to reach based upon your --

8 JUDGE CHACHKIN: The sentence will be stricken. Any
9 other objections?

10 MR. COHEN: The last sentence, "They were
11 unintended."

12 MR. TOPEL: Excuse me, Your Honor. Now, this
13 relates to the application --

14 JUDGE CHACHKIN: I understand.

15 MR. TOPEL: -- that Dr. Crouch signed.

16 JUDGE CHACHKIN: Yes. I'll overrule the objection
17 since this is -- Dr. Crouch is saying that it was intentional.
18 You can cross-examine.

19 MR. COHEN: Very well.

20 JUDGE CHACHKIN: Any other objections?

21 MR. COHEN: Yes. Paragraph 32.

22 JUDGE CHACHKIN: Yes.

23 MR. COHEN: In the middle of the paragraph, "The
24 services were not intended as a mean to exercise control over
25 NMTV and I do not believe they represented control." I think

1 --
2 JUDGE CHACHKIN: Where is this? Where is this?
3 MR. COHEN: The middle --
4 JUDGE CHACHKIN: Of 32?
5 MR. COHEN: The middle of 32, ten lines from the
6 bottom.
7 JUDGE CHACHKIN: All right. I see it.
8 MR. COHEN: And his belief is absolutely irrelevant.
9 MR. TOPEL: Well, Your Honor, I would ask then that
10 you limit the, the objections to the last clause regarding,
11 regarding his belief, but I think his statement of his intent
12 --
13 MR. COHEN: I'm not objecting to his intent.
14 MR. TOPEL: Okay. That's fine.
15 JUDGE CHACHKIN: So your objection is --
16 MR. COHEN: "And I do not believe they represented
17 control."
18 JUDGE CHACHKIN: All right. That phrase is stricken
19 as not relevant. The sentence ends with "NMTV." Any other
20 objections?
21 MR. COHEN: I'm looking, Your Honor. Please give me
22 a minute. Now, Your Honor, turning to 37 --
23 JUDGE CHACHKIN: Does the Bureau have any? 37? You
24 have no objection to 33 on? Is that what you're saying?
25 MR. COHEN: That's correct.

1 JUDGE CHACHKIN: And what is the Bureau's position?
2 Any other objections before 37?
3 MR. SHOOK: Your Honor, in paragraph 33 --
4 JUDGE CHACHKIN: Yes.
5 MR. SHOOK: -- the second to the last sentence.
6 We're getting into this murky area of belief.
7 JUDGE CHACHKIN: Where are we talking about?
8 MR. SHOOK: The sentence that reads, "I certainly
9 was not trying to assert any illegal or hidden control."
10 JUDGE CHACHKIN: I'll allow it in. Overruled. Any
11 objection -- what's your next objection? 37?
12 MR. COHEN: Your Honor, this concerns the, the
13 accounting errors.
14 JUDGE CHACHKIN: What? 37? Yeah.
15 MR. COHEN: Yes.
16 MR. SHOOK: Your Honor --
17 MR. COHEN: Actually it starts with 36.
18 MR. SHOOK: Mr. Cohen, excuse me. The last sentence
19 of paragraph 35.
20 MR. COHEN: 35? Is that where it begins?
21 MR. SHOOK: No. There's a statement here that --
22 the sentence that reads, "Mrs. Duff also did not think NMTV
23 should not participate," blah, blah.
24 JUDGE CHACHKIN: Well, that will be stricken.
25 Mrs. Duff's testimony will speak for itself.

1 MR. TOPEL: Is the -- the whole sentence is --

2 JUDGE CHACHKIN: The last sentence referring to what
3 Mrs. Duff thought is stricken.

4 MR. COHEN: Your Honor, turning to 36, I must
5 confess I'm not sure now how you dealt with the matter of the
6 accounting errors and I would ask that your rulings be
7 consistent.

8 JUDGE CHACHKIN: Let's see what it says here.

9 MR. TOPEL: Your Honor, may I make a comment that
10 may be helpful or may not?

11 JUDGE CHACHKIN: I think it begins at 38 actually.
12 The first two paragraphs, 36 and 37 are unnecessary because
13 they deal with what he was told, and insofar as the accounting
14 errors are concerned, I assume it's covered in the joint
15 exhibit.

16 MR. COHEN: That's exactly what the joint exhibit
17 --

18 MR. TOPEL: That's Mr. Cohen's point and I think --
19 now I think I understand it and I'd like to offer a
20 suggestion. We are not intending either by Mrs. Duff's
21 testimony or Dr. Crouch's testimony to supersede the joint
22 exhibit at all. The characterizations that are contained in
23 their testimony is simply intended as preparatory matter to
24 then give their explanations of what they knew and didn't
25 know. And my suggestion would be to leave the testimony in

1 and I will acknowledge that for purposes of what the
2 accounting errors were that the joint exhibit controls and
3 that we will not use this testimony to explain what the
4 accounting errors were. That's not what we were intending to
5 do. It was a way to get into what they were explaining.

6 MR. COHEN: Your Honor, I think Mr. Topel's point is
7 an interesting one, but that's not what concerned me. I just
8 want to make sure that the treatment -- that you treat this
9 material which deals with the same subject matter that
10 Mrs. Duff's testimony dealt with in the same way. That's what
11 I'm raising and I don't really recall how -- exactly how you
12 handled it.

13 JUDGE CHACHKIN: Well, I struck from the record her
14 testimony regarding her understanding which she had since
15 learned on the grounds that the evidence relating to the -- as
16 set forth in the -- the relevant evidence as set forth in the
17 joint exhibit, and her understanding is irrelevant at this
18 point and all we were interested in was her knowledge or lack
19 of knowledge concerning these accounting errors.

20 MR. COHEN: Well, I think you will find by reading
21 this that -- and I could stand corrected by Mr. Topel, that
22 this testimony on page -- beginning at 36 also is speaking as
23 of the present time. It doesn't relate to what his knowledge
24 was at the, at the earlier time.

25 MR. TOPEL: The testimony is parallel in that

1 regard.

2 MR. COHEN: Yeah, that's what I thought.

3 MR. TOPEL: That's correct.

4 MR. COHEN: So I think your ruling should be the
5 same, Your Honor.

6 JUDGE CHACHKIN: All right.

7 MR. SHOOK: Your Honor, having had the opportunity
8 to look at the copy that we have of Mrs. Duff's testimony, the
9 way I would see this is that the first two sentences of
10 paragraph 36 would be unobjectionable, but then the remainder
11 of paragraph 36 and the entirety in paragraph 37 would be
12 stricken.

13 JUDGE CHACHKIN: I will -- consistent with what I
14 did in the case of Mrs. Duff, I will do the same thing. The
15 first two sentences of paragraph 36 are received and the
16 remainder of paragraph 36 and 37 are stricken on the grounds
17 that the material dealing with the corrections -- the nature
18 of the errors and the corrections, etc., set forth in the
19 joint exhibit need not be repeated by every witness that they
20 have no knowledge of the matter, and the knowledge of the
21 matter begins, I gather, at paragraph 38.

22 MR. COHEN: And I have no objection to that
23 paragraph because it explains what he, what he knew and what
24 he didn't know.

25 JUDGE CHACHKIN: 38 is received then. Any further

1 objections?

2 MR. COHEN: Can I have a minute, Your Honor?

3 JUDGE CHACHKIN: Yes.

4 MR. COHEN: Yes, Your Honor. Paragraph 40, I have
5 an objection to the sentence beginning, "I have recently been
6 shown a memorandum."

7 JUDGE CHACHKIN: Which one is that?

8 MR. COHEN: Of December 4, 1980 from Bill Phipps.
9 That's line 1, 2, 3, 4. I have no objections to him saying I
10 do not recall having seen it before, but I do object where he
11 says, "Although I probably did since I am shown as receiving a
12 copy." I have no problems with -- if his testimony is I
13 received a copy, but to say that although I probably did is,
14 to me, speculative. I would reform -- I would strike
15 "Although I probably did."

16 JUDGE CHACHKIN: Well, this is his testimony.

17 MR. COHEN: Well, probably --

18 JUDGE CHACHKIN: You could question him as to --

19 MR. COHEN: Very well, Your Honor. Very well.

20 JUDGE CHACHKIN: -- the basis of the -- he believes
21 that he probably receive it.

22 MR. COHEN: I have nothing else --

23 JUDGE CHACHKIN: All right.

24 MR. COHEN: -- in that paragraph.

25 JUDGE CHACHKIN: All right.

1 MR. COHEN: The next objection that I have is in
2 paragraph 42, Your Honor.

3 JUDGE CHACHKIN: All right.

4 MR. COHEN: And that's beginning with -- in the
5 middle of the paragraph where it states, "NMTV's assertions."

6 JUDGE CHACHKIN: Paragraph 42?

7 MR. COHEN: Yes, sir.

8 JUDGE CHACHKIN: And where is your --

9 MR. COHEN: "NMTV's assertions that it is a minority
10 controlled company."

11 JUDGE CHACHKIN: Yes.

12 MR. COHEN: I object to that sentence and the
13 remainder of the paragraph on the grounds that they're -- it's
14 conclusory material and --

15 JUDGE CHACHKIN: I'll --

16 MR. COHEN: -- in large part this is what you have
17 to decide.

18 JUDGE CHACHKIN: I'll strike the material.

19 MR. TOPEL: Your Honor, starting from "NMTV's
20 assertions?"

21 JUDGE CHACHKIN: Yes, and the remainder of the
22 paragraph. I gather every witness will say the same thing.
23 Further objections?

24 MR. COHEN: Yes, sir. Insofar as the latter part of
25 -- the last sentence in paragraph 43 is concerned, I -- this

1 is coming in, I take it, or I would ask you to have it come in
2 strictly for the witness' state of mind and not for the truth
3 of the proposition asserted. "In 1989 I read an article."
4 This is -- that was the basis on which you allowed that --
5 Mrs. Duff's testimony in concerning the article in the Los
6 Angeles Times.

7 MR. TOPEL: And we will stipulate that it's intended
8 for state of mind. And, Your Honor, this is one of those
9 instances where I did not repeat including the attachment, the
10 article, since it was already and it is already in the record.

11 JUDGE CHACHKIN: All right. You might indicate what
12 -- where it is, however, since --

13 MR. TOPEL: Yes, Your Honor. If I could have one,
14 one moment.

15 JUDGE CHACHKIN: Yes.

16 MR. SCHONMAN: It's K, Your Honor.

17 MR. COHEN: K? Tab K is Exhibit 101.

18 JUDGE CHACHKIN: All right.

19 MR. TOPEL: Yes, it's Tab K of TBF Exhibit 101.

20 JUDGE CHACHKIN: All right. Now, your objection is
21 to the last sentence?

22 MR. COHEN: Well -- no. I said I want to make it
23 clear that that's coming in for state of mind and Mr. Topel
24 has assured me on this. The last sentence I'm objecting to.

25 JUDGE CHACHKIN: The last sentence, yes.

1 MR. COHEN: Yes, which I find to be an egregious
2 conclusion and it's objectionable, Your Honor.

3 JUDGE CHACHKIN: I'm going to strike the last
4 sentence. I agree with you. It's conclusory.

5 MR. COHEN: In paragraph 44 I have no objection to
6 the first part of this sentence. I have -- to the first
7 sentence, "At no time have I intentionally violated any FCC
8 rule or requirement."

9 JUDGE CHACHKIN: The remainder of the sentence will
10 be stricken. Each witness will speak for himself.

11 MR. COHEN: Yes. And I object to the paragraph
12 beginning, "If any action concerning NMTV has been in error."

13 JUDGE CHACHKIN: Well, the remainder of the
14 paragraph -- what -- beginning with, "If any action?"

15 MR. COHEN: Yes.

16 JUDGE CHACHKIN: The remainder of the paragraph?

17 MR. COHEN: The remainder of the paragraph --

18 JUDGE CHACHKIN: Yes. All right.

19 MR. COHEN: -- because it's speculative. It hasn't
20 -- it's conclusory.

21 JUDGE CHACHKIN: It will be stricken. The --
22 beginning with the sentence, "If any action concerning NMTV
23 has been in error," to the end of the paragraph is stricken.
24 So all that remains is, "At no time have I intentionally
25 violated any FCC rule or requirement. My intention has been

1 to comply with and further the FCC's policies as I understood
2 them, and that is still my intention today."

3 MR. COHEN: I have no further objections.

4 JUDGE CHACHKIN: All right. Does the Bureau have
5 any further objections?

6 MR. SHOOK: None, Your Honor.

7 JUDGE CHACHKIN: TBF Exhibit 104 except as noted by
8 my rulings is received.

9 (The document that was previously
10 marked for identification as TBF
11 Exhibit No. 104 was received into
12 evidence with noted exceptions.)

13 MR. TOPEL: Your Honor, we have the tabs.

14 JUDGE CHACHKIN: And Tab A -- all right. Let's call
15 the tabs now.

16 MR. SHOOK: Tab A has been rejected.

17 JUDGE CHACHKIN: Tab A?

18 MR. SHOOK: 102. Wait a minute, 104. Excuse me.
19 I'm in error. I'm, I'm confused, Your Honor.

20 JUDGE CHACHKIN: Yeah, Tab A in 104.

21 MR. SHOOK: But I think Tab A has been objected --
22 has been rejected.

23 MR. TOPEL: I don't think it was?

24 MR. SHOOK: Well, was it? It was received?

25 JUDGE CHACHKIN: I don't know.

1 MR. TOPEL: Yes, Your Honor. The testimony is still
2 in. The testimony citing Tab A is still in the record.

3 MR. SHOOK: That was my question.

4 JUDGE CHACHKIN: Was it objected to?

5 MR. COHEN: No.

6 MR. SHOOK: No.

7 JUDGE CHACHKIN: If it was objected to and if I
8 struck it, then this would come also.

9 MR. SHOOK: But it was -- I don't know who objected
10 to it, but it was not strictly.

11 MR. TOPEL: Your Honor, it's -- the related
12 testimony is in paragraph 8 and it was not objected to.

13 MR. COHEN: Then I have no objection to A.

14 JUDGE CHACHKIN: All right. Tab A is received.

15 MR. COHEN: I objected to B, but I think you
16 overruled my objection.

17 JUDGE CHACHKIN: I don't think you objected to B,
18 but Tab B is received.

19 MR. COHEN: No. I objected to the, to the material
20 involving B and you --

21 JUDGE CHACHKIN: I thought you didn't object to his
22 meeting with -- all right.

23 MR. COHEN: Yes, I did.

24 JUDGE CHACHKIN: Yes. I remember you did. All
25 right. It's received. Tab C?

1 MR. COHEN: Tab C I don't object to.

2 JUDGE CHACHKIN: Tab, Tab C is received. Tab D?

3 MR. COHEN: I don't object to that.

4 JUDGE CHACHKIN: Tab D is received. Tab E?

5 MR. COHEN: I don't object to that.

6 JUDGE CHACHKIN: Tab E is received. Tab F?

7 MR. COHEN: I don't object to that.

8 JUDGE CHACHKIN: Tab F is received. All right.

9 We're now up to 104 -- 105.

10 MR. TOPEL: That -- yes. Your Honor, I would ask to
11 have marked for identification as TBF Exhibit -- let me state
12 for the record, Your Honor, I'm in Volume II-C which contains
13 TBF Exhibits 105 to 106.

14 JUDGE CHACHKIN: I have that.

15 MR. TOPEL: And I asked to have marked for
16 identification a document entitled "Testimony of Colby M.
17 May." It consists of 21 pages of testimony followed by a
18 supporting declaration and tabs running from letter A through
19 letter V, and I ask that that be marked for identification as
20 TBF Exhibit 105.

21 JUDGE CHACHKIN: The documents will be so marked.

22 (The document that was referred
23 to as TBF Exhibit No. 105 was
24 marked for identification.)

25 MR. TOPEL: Your Honor, I ask to have marked for